

DELEGATION OF AUTHORITY

DATE: 09/03/96

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-14-F. Cost Recovery Arbitration

1. PURPOSE AND LEGAL AUTHORITY.

A. Purpose.

(1) To redelegate the authority contained in Delegation 14-14-F issued by EPA Headquarters on May 11, 1994.

(2) Revised to conform with the structure implemented by the Region I reorganization, dated September 29, 1995

B. Authority. Pursuant to CERCLA, as amended, to:

(1) refer cost recovery claims for resolution by arbitration; and

(2) represent EPA at arbitration hearings, conferences and negotiations.

2. TO WHOM DELEGATED.

A. The authority in 1.B.(1) is delegated to the Director, Office of Site Remediation and Restoration (OSRR).

B. The authority in 1.B.(2) is delegated concurrently to the Superfund Legal Manager and the Superfund staff attorney, Legal Enforcement Unit, Office of Environmental Stewardship (OES).

3. REDELEGATION AUTHORITY. These authorities may not be redelegated.

4. LIMITATIONS.

A. Prior to exercising the authority in 1.B.(1), the Director, OSRR, shall obtain the advance concurrence of the Superfund Legal Manager, Legal Enforcement Unit, OES, and/or the Superfund Staff Attorney, unless this concurrence is waived by the Superfund Legal Manager.

B. The Director, shall notify the Assistant Administrator for Enforcement and Compliance Assurance and the Assistant Administrator

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for Solid Waste and Emergency Response or their designees prior to referring a cost recovery claim for resolution by arbitration. Either Assistant Administrator may waive the notification by memorandum.

5. COORDINATION. The Superfund Legal Manager, and/or the Superfund Staff Attorney, or their designees, are responsible for any necessary consultation with Office of Regional Counsel, or his/her designee, regarding significant counselling issues.

6. ADDITIONAL REFERENCES.

A. Sections 104, 107 and 122(h)(2) of CERCLA.

B. Procedures for referral of cost recovery claims for resolution by arbitration and for representing EPA at arbitration hearings, conferences and negotiations are published at 40 CFR Part 304, Arbitration Procedures for Small Superfund Cost Recovery Claims.

C. Authority to enter into or exercise Agency concurrence in non-judicial agreements or administrative orders for the recovery of response costs is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders." Delegation 14-14-D may become applicable in two situations under the arbitration regulation: (i) if the Agency seeks to adopt a proposed arbitral decision as an administrative settlement pursuant to Section 122(h)(1) of CERCLA when the arbitration has been converted to a non-binding arbitration because costs increased to a dollar amount in excess of \$500,000, excluding interest, prior to the rendering of the final arbitral decision; or (ii) if the parties to the arbitration settle the claim as an administrative settlement pursuant to Section 122(h)(1) of CERCLA, rather than having the settlement embodied in a proposed arbitral decision. In either instance, if the total response costs at the facility exceed \$500,000, excluding interest, the Agency may not compromise the claim without the prior written approval of the Attorney General.

ENVIRONMENTAL PROTECTION AGENCY
REGION I - BOSTON

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D. Authority to enter into or exercise Agency concurrence in de minimis settlements under Section 122(g) of CERCLA is delegated in Delegation 14-14-E, "De Minimis Settlement."

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7. SUPERSESSSION. Region I Delegation 14-14-F, dated June 30, 1995.

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Linda Murphy, Director
Office of Site Remediation and
Restoration